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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,944	01/30/2001	- Justin Broughton	004919.P001	5527
28960	7590	09/30/2005	EXAMINER	
HAVERSTOCK & OWENS LLP			CARDONE, JASON D	
162 NORTH WOLFE ROAD			ART UNIT	
SUNNYVALE, CA 94086			PAPER NUMBER	

2145

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,944

Applicant(s)

BROUGHTON ET AL.

Examiner

Jason D. Cardone

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 and 45-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/05, 7/28/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the remarks of the applicant, filed on 7/15/05. Claims 1-60 are presented.

### ***Election/Restrictions***

2. Claims 1-32 and 45-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/15/05. A complete reply to the rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.
3. Claims 33-44 are presented for further examination.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
5. Claims 37-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims disclose computer-readable medium having computer-executable instructions. The computer-readable medium containing instructions is not tangibly limited to a product that is within and enabled by the specification. Claims 37-40 are not limited to tangible embodiments. In view of Applicant's disclosure, specification page 51, the medium is not limited to tangible

embodiments, instead being defined as including both tangible embodiments (e.g., storage device) and intangible embodiments (e.g., carrier waves). As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 33-44 rejected under 35 U.S.C. 102(e) as being anticipated by Crowther et al. ("Crowther"), USPN 6,771,765.

8. Regarding claim 41, Crowther discloses a computer system comprising;

a processing unit [ie. MQM, Crowther, col. 3, lines 55-67];

a memory coupled to the processing unit through a bus [ie. database for MQM, Crowther, col. 4, lines 19-34]; and

a service-tiering process executed from the memory to cause the processing unit to determine an initial service tier for a contact in a digital multimedia contact center based on routing criteria for the contact [Crowther, col. 3, line 55 – col. 4, line 17, col. 7, lines 1-16 and col. 8, lines 1-20], to de-escalating the contact to a lower service tier if a

change in the routing criteria does not satisfy pre-defined criteria for the initial service tier [ie. de-escalating the email media type because of the priority level, Crowther, col. 8, lines 1-51], and to escalate the contract to a higher service tier if a change in the routing criteria satisfies pre-defined criteria for the higher service tier [ie. escalate voice call media type, also escalate email media type, once voice call has ended, Crowther, col. 8, lines 21-63].

9. Regarding claim 42, Crowther further discloses the processing unit to initially determine the routing criteria based on a media type associated with the contact [Crowther, col. 3, lines 1-67].

10. Regarding claim 43, Crowther further discloses the processing unit to change the routing criteria through execution of a workflow for the contact [Crowther, col. 4, line 65 – col. 5, line 8 and col. 7, lines 17-44].

11. Regarding claim 44, Crowther further discloses the processing unit to change the routing criteria based on contact activity [Crowther, col. 4, line 65 – col. 5, line 8 and col. 7, lines 17-44].

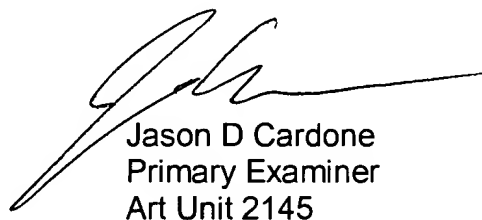
12. Regarding claims 33-40, claims 33-40 have similar limitations as claims 41-44. Therefore, the similar limitations are disclosed under Crowther for the same reasons set forth in the rejection of claims 41-44 [Supra 41-44].

***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason D. Cardone whose telephone number is (571) 272-3933. The examiner can normally be reached on Mon.-Thu. (6AM-3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason D Cardone  
Primary Examiner  
Art Unit 2145

September 28, 2005